

Roles and responsibilities of councils

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The Building Act 2004 creates clearly defined roles for building consent authorities (BCAs), territorial authorities and regional authorities. It also provides for private organisations to perform certain consent and inspection functions, however, the Act sets out strict criteria for this.

Roles and responsibilities of a BCA

BCAs perform the following functions:

- issue building consents (except consents subject to a waiver or modification)
- inspect building work for which it has granted a building consent
- issue notices to fix
- issue code compliance certificates
- issue compliance schedules
- when issuing building consents, a BCA must provide to the New Zealand Fire Service Commission a copy of every application for a building consent of a kind specified by a [Gazette notice \(https://gazette.govt.nz/\)](https://gazette.govt.nz/).

Roles and responsibilities of a private BCA

A BCA may be a private organisation or person and not part of a territorial authority. An independent BCA must be both accredited and registered. It can then perform the functions of a BCA with some exceptions, including the following:

- it must obtain a project information memorandum from the territorial authority
- it must provide copies of all documentation to the territorial authority for the district within five working days after receiving or issuing such information
- after issuing a compliance schedule, it has five days to notify the territorial authority.

Roles and responsibilities of a territorial authority

A territorial authority must perform the functions of a BCA for its own city or district. A territorial authority is responsible for any coastal marine area adjacent to its district that is not within the district of another territorial authority, and a territorial authority must perform the functions of a BCA within this area.

In addition to these responsibilities, a territorial authority performs the following functions (including any functions that are incidental and related to, or consequential upon these).

A territorial authority issues:

- project information memoranda
- building consents where the consent is subject to a waiver or modification of the Building Code
- certificates of acceptance
- certificates for public use

- compliance schedules (and amends compliance schedules).

A territorial authority also:

- follows up and resolves notices to fix
- administers annual building warrants of fitness
- enforces the provisions relating to annual building warrants of fitness
- decides the extent to which buildings must comply with the Building Code when they are altered, the use is changed, or their specified intended life changes
- performs functions relating to dangerous or insanitary buildings
- performs functions relating to earthquake prone buildings
- performs building safety evaluation following an earthquake or other emergency
- determines whether building work is exempt under Schedule 1 from requiring a building consent
- carries out any other functions and duties specified in the Building Act 2004.

Roles and responsibilities of a regional authority

Regional authorities are required to become BCAs to undertake building control work on dams. They also perform many territorial authority functions in respect of dams, including issuing project information memoranda, being responsible for the compliance schedule regime, and issuing certificates of acceptance.

Keeping information

A territorial authority (and regional authority for dams) must keep, for at least the life of the building, any information that is relevant to the administration of the Building Act, including the following information:

- plans and specifications in relation to building consent applications
- the names of any licensed building practitioners who certified the designs and/or undertook building work on projects that come under the restricted building work regime
- project information memoranda and building consents
- the specified intended life of the building (if applicable)
- code compliance certificates
- compliance schedules
- building warrants of fitness
- copies of energy work certificates
- district court orders under section 126 (territorial authority having undertaken the work)
- records of information on any land or building received by the territorial authority from a statutory authority
- all information provided to the territorial authority by a BCA under section 238 (information BCAs have provided in relation to the above).

The following information must be available to the public and must be kept for 10 years.

- summary of written complaints received by the territorial authority concerning alleged breaches of this Act or the former Act
- information on how the territorial authority dealt with the complaints.

We recommend the following considerations for keeping documentation:

- Are all records relating to building work being kept for the life of the building?
- Are energy work certificates being collected and filed with the building consent documentation?
- Does the territorial authority keep a register or public record of written complaints relating to building control matters?
- Does the territorial authority's register or public record contain a summary of how the complaints were dealt with?

Access to information

All of the information referred to above must be available on request to members of the public during ordinary office hours. The only exception to this requirement is where the applicant, owner or subsequent owner for reasons of security of the building has marked plans or specifications as confidential.

A territorial authority must make photocopying facilities available to people who wish to access information as described above, and may charge a reasonable fee for the use of those facilities.

Providing information to the Chief Executive of MBIE

A territorial authority must provide information to the Chief Executive that is related to its functions, duties and powers under this Act, as prescribed by regulations.

Powers of territorial authorities

Charges and levies

A territorial authority may impose a fee or charge for services provided under the Building Act 2004, and must collect the levy in relation to a building consent.

Power to carry out building work

Where building work is dangerous, insanitary or earthquake-prone, and the owner or responsible person has not taken corrective measures, a territorial authority can apply to the District Court for an order authorising the territorial authority to do the work.

Power to inspect and enter land

Sections 222 to 228 provide details of the powers of entry to undertake an inspection. These powers are largely similar to the powers territorial authorities had under the Building Act 1991. A clear reason for any inspection must be provided to the owner, occupier or builder.

Enforcement powers

The territorial authority may choose to warrant enforcement officers to issue infringement notices under section 372 of the Act.

- with compliance with the Building Act, it is published under section 175 of the Building Act
- with a Weathertight Services claim, it is published under section 12 of the Weathertight Homes Resolution Services Act 2006.